



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

*Street address:* 629 East Main Street, Richmond, Virginia 23219

*Mailing address:* P.O. Box 10009, Richmond, Virginia 23240

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[www.deq.state.va.us](http://www.deq.state.va.us)

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

Robert G. Burnley  
Director

(804) 698-4000  
1-800-592-5482

March 5, 2002

Mr. David Watson  
Environmental Manager  
Department of Corrections  
P. O. Box 944  
Dilwynn, Virginia 23936

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

RE: VWP Individual Permit Number 95-0957  
Women's Correctional Center Fluvanna County Virginia  
Final VWP Individual Permit

Dear Mr. Watson:

Pursuant to the Virginia Water Protection (VWP) Permit Program Regulation 9 VAC 25-210-10 and § 401 of the Clean Water Act Amendments of 1977, Public Law 95-217, the Department of Environmental Quality (DEQ) has enclosed the reissued VWP individual permit for the intake for the Women's Correctional Center on Mechunk Creek. The proposed project results in a withdrawal of up to from Mechunk creek, Virginia.

The provisions and conditions contained therein according to § 401(a)(1) of the Clean Water Act requires that:

"Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge in the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act."

This permit is valid for 15 years from the date of issuance. Re-issuance of the permit may be necessary if any portion of the authorized activities or any permit requirement

Mr. David Watson

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have not been completed. The permit term, including any extensions, cannot exceed the maximum of 15 years.

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 calendar days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court of Virginia with the Director, Department of Environmental Quality. In the event that this decision is served on you by mail, three days are added to that period. Refer to Part 2A of the Rules of the Supreme Court of Virginia for additional requirements governing appeals from administrative agencies.

Alternatively, any owner under §§62.1-44.16, 62.1-44.17 and 62.1-44.19 of the State Water Control Law aggrieved by any action of the board taken without a formal hearing, or by inaction of the board, may demand in writing a formal hearing of such owner's grievance, provided a petition requesting such hearing is filed with the board. Said petition must meet the requirements set forth in §1.23(b) of the board's Procedural Rule Number 1 (9 VAC 25-230-10 et seq. of the Virginia Administrative Code). In cases involving actions of the board, such petition must be filed within 30 calendar days after notice of such action is mailed to such owner by certified mail.

If you have any questions, please contact Joe Hassell at 804 698-4072.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin G. Ferguson, Jr.", with a stylized, flowing script.

Martin G. Ferguson, Jr.  
Environmental Quality Assistant Division Director

Enclosures: Permit Cover Page, Part I – Special Conditions, Part II – General Conditions

cc: Nora Iseli, U.S. Army Corps of Engineers  
Roy Carter, Fluvanna Women's Correctional Center



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VWP Individual Permit Number 95-0957

Effective Date: March 5, 2002

Expiration Date: March 5, 2017

### VIRGINIA WATER PROTECTION PERMIT ISSUED PURSUANT TO THE STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT

Based upon an examination of the information submitted by the owner and in compliance with § 401 of the Clean Water Act as amended (33 USC 1251 et seq.) and the State Water Control Law and regulations adopted pursuant thereto, the State Water Control Board (board) has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to a significant impairment to state waters or fish and wildlife resources.

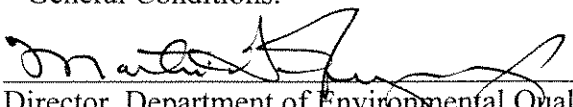
**Permittee:** Department of Corrections - Fluvanna Correctional Facility

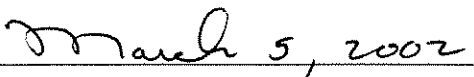
**Address:** P.O. Box 1000 Troy, Virginia 22974

**Activity Location:** On Mechunks Creek at Route 250 in Fluvanna County

**Activity Description:** Water intake on Mechunks Creek

The permitted activity shall be in accordance with this Permit Cover Page, Part I - Special Conditions and Part II - General Conditions.

  
for Director, Department of Environmental Quality

  
Date

Special Conditions

1. This permit authorizes the operation of a water supply intake on Mechunks Creek as indicated in the Joint Permit Application dated July 26, 1995 and the modification requested on January 12, 2002.
2. Any additional impacts to State waters associated with this project may require modification of this permit and mitigation.
3. This permit expires 15 years from its date of issuance.
4. The maximum daily withdrawal shall not exceed 0.72 million gallons.
5. The maximum annual withdrawal shall not exceed 92 million gallons.
6. The permittee shall record the volume of water withdrawn from Mechunks Creek each day.
7. The permittee shall monitor on a daily basis the provisional stream flow of the Rivanna River at Palmyra, U.S.G.S. gage # 02034000.
8. Except as authorized by condition 9 or 10, the permittee shall not withdraw water from Mechunks Creek unless the provisional stream flow of the Rivanna River at Palmyra, U.S.G.S. gage # 02034000 is greater than or equal to 220 cubic feet per second.
9. If the remaining water supply storage of the Fluvanna Women's Correctional Center is less than or equal to 50% of total storage, then the permittee may pump up to 0.42 million gallons daily, provided that the provisional stream flow of the Rivanna River at Palmyra, U.S.G.S. gage # 02034000 is greater than or equal to 100 cubic feet per second.
10. If the remaining water supply storage of the Fluvanna Women's Correctional Center is less than or equal to 25% of total storage, then the permittee may pump up to 0.144 million gallons daily regardless of the value of the provisional stream flow of the Rivanna River at Palmyra.

11. The permittee shall file an annual monitoring report by January 31<sup>st</sup> of each year to demonstrate compliance with special conditions 4 through 10 during the previous calendar year. The report shall contain the following information: for each day; the date, the provisional streamflow of the Rivanna River at Palmyra, the percentage depletion of the water supply storage pond, the allowable and actual withdrawal from Mechunks Creek. The annual report shall also sum the total withdrawals for the year.
12. All written communications required by this permit shall be submitted to the Department of Environmental Quality, Office of Water Permits, P. O. Box 10009 Richmond, Virginia 23240. Please include the permit number on all correspondence.
13. Within 60 days of permit issuance the permittee shall submit for DEQ approval:
  - a. A description of the measuring methodologies for determining the storage remaining in the storage pond,
  - b. A written description of the frequency and method with which the gage will be checked
  - c. A description of how the permittee shall determine the volume of water remaining in the storage pond
  - d. A plan for what measures the permittee will put in place to estimate streamflow at the intake in the event that the Rivanna River at Palmyra gage is damaged, disabled or discontinued.

All methodologies shall be designed to yield data which are representative of the monitored activity.

14. Any report submitted in compliance with condition 11 must bear the applicant's signature or the signature of a person acting in the applicant's behalf, with the authority to bind the applicant.
15. Certification of reports. Any person signing the annual monitoring report shall include the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

## **Part II – General Conditions**

### **A. Duty to Comply**

The permittee shall comply with all conditions of the VWP permit. Nothing in this permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and prohibitions. Any VWP permit violation is a violation of the law, and is grounds for enforcement action, VWP permit termination, revocation, modification, or denial of an application for a VWP permit extension or reissuance.

### **B. Duty to Cease or Confine Activity**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

### **C. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any impacts in violation of the permit which may have a reasonable likelihood of adversely affecting human health or the environment.

### **D. VWP Permit Action**

1. A VWP permit may be modified, revoked and reissued, or terminated as set forth in 9 VAC 25-210 et seq.
2. If a permittee files a request for VWP permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the VWP permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective VWP permit. If the permittee wishes to continue an activity regulated by the VWP permit after the expiration date of the VWP permit, the permittee must apply for and obtain a new VWP permit or comply with the provisions of 9 VAC 25-210-185.
3. VWP permits may be modified, revoked and reissued or terminated upon the request of the permittee or other person at the board's discretion, or upon board initiative to reflect the requirements of any changes in the statutes or regulations, or as a result of VWP permit noncompliance as indicated in subsection A above, or for other reasons listed in 9 VAC 25-210-180.

### **E. Inspection and Entry**

Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP permit conditions;
2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP permit, and
3. Sample or monitor any substance, parameter or activity for the purpose of ensuring compliance with the conditions of the VWP permit or as otherwise authorized by law.

**F. Duty to Provide Information**

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, reissuing or terminating the VWP permit, or to determine compliance with the VWP permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.
2. Plans, specifications, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

**G. Monitoring and Records Requirements**

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.
2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.
4. Records of monitoring information shall include:
  - a. The date, exact place and time of sampling or measurements;
  - b. The name of the individuals who performed the sampling or measurements;
  - c. The date and time the analyses were performed;

- d. The name of the individuals who performed the analyses;
- e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;
- f. The results of such analyses; and
- g. Chain of custody documentation.

**H. Reopener**

This permit may be reopened to modify conditions to meet new regulatory standards duly adopted by the board. Cause for reopening a permit includes, but is not limited to when the circumstances on which the permit was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change, since the time the permit was issued and thereby constitute cause for permit modification or revocation and re-issuance.

**I. Compliance with State and Federal Law**

Compliance with this permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

**J. Property rights**

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.

**K. Transferability**

Except as provided for under automatic transfer, a permit shall be transferred only if the permit has been modified to reflect the transfer or has been revoked and reissued to the new permittee. A permit shall be automatically transferred to a new permittee if:

1. The current permittee notifies the board within 30 days of the proposed transfer of the title to the facility or property;
2. The notice to the board includes a written agreement between the existing and proposed permittee containing a specific date of transfer of permit responsibility, coverage and liability to the new permittee, or that the existing permittee will retain such responsibility,



coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; and

3. The board does not within the 30-day time period notify the existing permittee and the new permittee of its intent to modify or revoke and reissue the VWP permit.

**L. Civil and criminal liability**

Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

**M. Unauthorized discharge of pollutants**

Except in compliance with this permit, it shall be unlawful for the permittee to dredge, fill or discharge any pollutant into, or adjacent to surface waters, or otherwise alter the physical, chemical or biological properties of surface waters, excavate in wetlands, or on or after October 1, 2001, conduct the following activities in a wetland:

1. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
2. Filling or dumping;
3. Permanent flooding or impounding; or
4. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

**N. Severability**

The provisions of this permit authorization are severable.

**O. VWP Permit Extension**

Any permittee with an effective VWP permit for an activity that is expected to continue after the expiration date of the VWP permit, without any change in the activity authorized by the VWP permit, shall submit written notification requesting an extension. The permittee must file the request prior to the expiration date of the VWP permit. Under no circumstances will the extension be granted for more than 15 years beyond the original effective date of the VWP permit. If the request for extension is denied, the VWP permit will still expire on its original date and, therefore, care shall be taken to allow for sufficient time for the board to evaluate the extension request and to process a full VWP permit modification, if required.